



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

URGENT MATTER -- PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

August 27, 2015

Michael R. McDonald
General Counsel
Clean Harbors
42 Longwater Drive
Norwell, MA 02061-9149

Re: Request for Information, Pursuant to Section 104 (e) Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9604(e)

Dear Mr. McDonald:

The U.S. Environmental Protection Agency ("EPA") is investigating a release of hazardous waste/constituents in both the soil and groundwater in and around property located at 302 Canal Street, Lawrence, Massachusetts (formerly 300 Canal St. Building 7) ("Property" or "Site"). The Property is currently subject to RCRA Corrective Action and cleanup under the Massachusetts Oil and Hazardous Material Release Prevention and Response Act (Chapter 21E). Based upon information currently available to EPA, Clean Harbors, Inc. ("Clean Harbors") purchased the Property from Safety-Kleen (NE), Inc. as part of a larger asset acquisition by Clean Harbors of substantially all of the assets of the Chemical Services Division ("CSD") of Safety-Kleen Corp. ("Safety-Kleen"), Safety-Kleen Services, Inc. ("Safety-Kleen Services") and certain of Safety-Kleen's domestic Subsidiaries. The CSD asset acquisition was made pursuant to a Sale Order dated June 18, 2002, and issued by the Bankruptcy Court for the District of Delaware. As expressly provided in Paragraphs O and P of the Sale Order, Clean Harbors assumed Safety-Kleen's environmental liability for the CSD assets.

The purpose of this correspondence is to request sampling and analytical data and any other information pertaining to the environmental conditions at and around the Property that has been collected by you (as used in this correspondence the term "you" refers to Clean Harbors and/or anyone acting on its behalf) or contractors hired by you or any such data or information in your possession or reasonably available to you. Additionally, we request information as to the scope of the environmental liability which Clean Harbors assumed when it purchased the Property as part of the CSD asset acquisition.

Pursuant to the authority of Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9604(e), you are hereby requested to respond to the Information Request set forth below. Please make your response by submitting the following information to EPA within thirty **(30) calendar days** of your receipt of this letter.

Toll Free • 1-888-372-7341

Internet Address (URL) • <http://www.epa.gov/region1>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

- 1) Please state whether Clean Harbors purchased the Property from Safety-Kleen (NE), Inc. on or before September 10, 2002.
- 2) Please provide a copy of the Acquisition Agreement by and between Safety-Kleen Services and Clean Harbors dated February 22, 2002 ("2002 Acquisition Agreement"). Include all schedules that pertain to the sale of Property from Safety-Kleen to Clean Harbors as set forth in Section 1.1 of the 2002 Acquisition including, but not limited to, Schedule 1.1(b)(vi)(A), Schedule 9.1 and to any other schedule, exhibit or attachment that relates to the purchase of the Property by Clean Harbors.
- 3) With regard to the purchase of the Property by Clean Harbors, please describe the environmental liabilities assumed by Clean Harbors relative to the Property when it entered into the 2002 Acquisition Agreement including, but not limited to, the environmental liabilities assumed by Clean Harbors pursuant to Section 1.3 of the 2002 Acquisition Agreement.
- 4) Please provide a copy of the Sale Order dated June 18, 2002, and issued by the Bankruptcy Court for the District of Delaware. Include all schedules, exhibits or attachments that relate to the purchase of the Property by Clean Harbors.
- 5) Please describe the environmental liabilities assumed by Clean Harbors relative to the Property when Clean Harbors purchased the Property pursuant to the Sale Order dated June 18, 2002, and issued by the Bankruptcy Court for the District of Delaware including, but not limited to, the environmental liabilities assumed by Clean Harbors pursuant to Paragraphs O and P of the Sale Order.
- 6) Please provide a copy of the Assumption Agreement by and between Safety-Kleen Services, Safety-Kleen Services' Selling Subsidiaries as listed on Schedule 9.1 of the 2002 Acquisition Agreement and Clean Harbors dated September 10, 2002 ("2002 Assumption Agreement"). Describe whether any provision(s) in the 2002 Assumption Agreement changed the environmental liabilities assumed by Clean Harbors as established in the 2002 Acquisition Agreement and in the Sale Order as those documents relate to the purchase by Clean Harbors of the Property.
- 7) In the Form 10-K Annual Report to the Securities and Exchange Commission ("SEC") for the year ending December 31, 2002 ("Clean Harbors 2002 SEC Form 10-K Annual Report"), Clean Harbors stated that,

"[i]n connection with [Clean Harbors'] acquisition of the CSD assets, [Clean Harbors] performed extensive due diligence, including hiring third party engineers and attorneys to estimate accurately the aggregate liability for environmental liabilities to which [Clean Harbors] became subject as a result of the acquisition." (Clean Harbors 2002 SEC Form

Please provide any and all notes created in the process of conducting the aforementioned due diligence, and any and all documents and/or reports prepared for the purpose of conducting due diligence for the purchase of the Property as they relate to known or suspected presence of hazardous waste/constituents at or from the Property. Include results of any and all laboratory analyses for soil, groundwater, indoor air, soil gas, surface water and/or sediment sampling collected on or from the Property, the adjacent properties, and adjacent water bodies. Include existing summary tables, field logs/notes, and complete laboratory reports.

8) Please provide any and all maps or figures showing the locations of the above samples collected and/or direction of groundwater flow.

9) Please provide any work plans and/or quality assurance project plans used in the selection and/or conduct of the above sampling and analyses activities. This information is necessary to determine the methodologies and quality control procedures used throughout the sample collection and analyses process.

10) Please provide any notes related to the discussion of, or any agreements, written or implied, related to the liability assigned to you or retained by the previous owner(s) of the Property for any known or suspected presence of hazardous waste/constituents and/or the investigation and/or remediation of such hazardous waste/constituents at the Property and adjacent properties.

11) Please provide any and all information related to known or suspected releases of hazardous waste/constituents at or from the Property.

12) Please provide copies of any draft and/or final Part B license applications submitted by Clean Harbors to MassDEP for the Canal Street Lawrence MA Facility.

13) Please submit a complete copy of the Closure Report Appendices. The copy submitted to EPA on August 15, 2008, was incomplete. For example, the Closure Plan contained in Appendix 7 refers to G-I and G-II which were not included. In addition, the Sampling Plan included in Appendix 8 is missing Appendices A-D. Please submit the entire copy including all appendices and attachments.

Guidance on How to Respond

As part of your response, please complete the enclosed declaration (Attachment 1) and provide a cover letter carefully specifying what documentation is included with your response. Your submission must be a self-explanatory, complete response that is dated and signed by an authorized company official.

For each person providing information that responds to these items, provide:

- a) full name
- b) title
- c) business address
- d) business telephone number and FAX machine number (if available).

If you have reason to believe that there may be persons other than those included above who may be able to provide a more detailed or complete response to any of these questions or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 CFR §2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. Information covered by such a claim will be disclosed by EPA only to the extent, and by the means of the procedures set forth by 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

Continuing Obligation to Provide/Correct Information

If additional information or documents responsive to this information request becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to CERCLA Section 104(e), that you supplement your response to EPA within ten (10) days of discovering such information. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Carolyn Casey of this fact as soon as possible, using the contact information below, and provide EPA with a corrected response.

Important Information About This Request and Your Response

While EPA seeks your voluntary cooperation in this investigation, compliance with the Information Request is required by law. Failure to provide a complete truthful response to this Information Request within fifteen (15) days of your receipt of this letter, or to adequately justify such failure to respond, may subject you to an enforcement action by EPA pursuant to Section 104(e) of CERCLA. This provision (along with the inflation adjustment provisions of 40 CFR § 19) permits EPA to seek the imposition of penalties of up to thirty-seven thousand five hundred dollars (\$37,500) for each day of non-compliance.

Please note that responses which are incomplete, ambiguous, or evasive will be treated as complete non-compliance with this Information Request. Also, be further advised that provision

of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001.

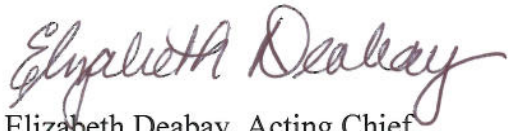
This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

Please forward your response, both on paper and, if available in electronic form, in pdf file format, to:

Ms. Carolyn Casey
U.S. Environmental Protection Agency
5 Post Office Square, Suite 100, Mail Code: OSRR 07-3
Boston, Massachusetts 02109-3912

If any files are available in electronic format and are smaller than 20 megabytes, they can be transmitted by email to casey.carolyn@epa.gov. If you have any questions with regard to this Information Request, please contact Ms. Casey at (617) 918-1368.

Sincerely,

A handwritten signature in dark ink, appearing to read "Elizabeth Deabay". The signature is fluid and cursive, with the first name "Elizabeth" written in a larger, more prominent script than the last name "Deabay".

Elizabeth Deabay, Acting Chief
Remediation and Restoration II Branch

cc: C. Casey, EPA
S. Gobiell, MassDEP
G. McCarthy, MassDEP
C. Smith, EPA
D. Wainberg, EPA

Attachments

1. Declaration
2. CBI regulation

DECLARATION

Attachment 1

Instructions: Complete and Include the Declaration With Your Response

DECLARATION

I declare under penalty of perjury that I am

the _____ of _____,
[Title] [Name of Company]

that I am authorized to respond on behalf of

_____ and that the foregoing is a complete, true and accurate
[Name of Company]

response.

Executed on _____
[Date]

[Signature]

[Type Name and Title]

Attachment 2

Confidential Business Information Regulation 40 CFR 2.203(b)

[Code of Federal Regulations]

1. [Title 40, Volume 1]

[Revised as of July 1, 2003]

From the U.S. Government Printing Office via GPO Access

[CITE: 40CFR2.203]

[Page 37]

TITLE 40--PROTECTION OF ENVIRONMENT

CHAPTER I--ENVIRONMENTAL PROTECTION AGENCY

PART 2--PUBLIC INFORMATION--Table of Contents

Subpart B--Confidentiality of Business Information

Sec. 2.203 Notice to be included in EPA requests, demands, and forms; method of asserting business confidentiality claim; effect of failure to assert claim at time of submission.

(a) Notice to be included in certain requests and demands for information, and in certain forms. Whenever an EPA office makes a written request or demand that a business furnish information which, in the office's opinion, is likely to be regarded by the business as entitled to confidential treatment under this subpart, or whenever an EPA office prescribes a form for use by businesses in furnishing such information, the request, demand, or form shall include or enclose a notice which--

(1) States that the business may, if it desires, assert a business confidentiality claim covering part or all of the information, in the manner described by paragraph (b) of this section, and that information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in this subpart;

(2) States that if no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to the business; and

(3) Furnishes a citation of the location of this subpart in the Code of Federal Regulations and the Federal Register.

(b) Method and time of asserting business confidentiality claim. A business which is submitting information to EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as trade secret, proprietary, or company confidential. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business, and may be submitted separately to facilitate identification and handling by EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.

(c) Effect of failure to assert claim at time of submission of information. If information was submitted by a business to EPA on or after October 1, 1976, in response to an EPA request or demand (or on an EPA-prescribed form) which contained the substance of the notice required by paragraph (a) of this section, and if no business

confidentiality claim accompanied the information when it was received by EPA, the inquiry to the business normally required by Sec. 2.204(c)(2) need not be made. If a claim covering the information is received after the information itself is received, EPA will make such efforts as are administratively practicable to associate the late claim with copies of the previously-submitted information in EPA files (see Sec. 2.204(c)(1)). However, EPA cannot assure that such efforts will be effective, in light of the possibility of prior disclosure or widespread prior dissemination of the information.

